

IN RE: PETITION FOR ZONING VARIANCE
E/S Lolly Lane, 215' S of the
C/I of Cowenton Avenue
(5023 Lolly Lane)
11th Election District
5th Councilmanic District
David F. Nighkin, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 90-97-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit a side yard setback of 2 feet in lieu of the required 10 feet for a proposed two car garage addition, in accordance with Petitioner's Exhibit 1.

The Petitioners appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 5023 Lolly Lane, consists of .459 acres zoned D.R. 3.5 and is improved with a single family dwelling and swimming pool. Petitioners are desirous of constructing a two car garage addition on the north side of the existing dwelling. However, due to the layout of the house and its location on the lot, the requested variances are necessary in order to construct the garage in the most practical location available. Testimony indicated the garage cannot be placed in the rear yard as a result of the existing swimming pool and septic area. Petitioners testified they have spoken with the adjoining affected property owners who have no objection to Petitioners' plans. Testimony further indicated the relief requested will not result in any detriment to the health, safety or general welfare of the community.

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Based upon the testimony and evidence presented at the hearing, all of which was uncontradicted, in the opinion of the Zoning Commissioner the relief requested sufficiently complies with the requirements of Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.) and, therefore, should be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 21st day of September, 1989 that the Petition for Zoning Variance to permit a side yard setback of 2 feet in lieu of the required 10 feet for a proposed two car garage addition, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2) Petitioner shall not allow or cause the accessory structure (garage) to be converted to a second dwelling unit and/or apartments. The garage shall contain no living or sleeping quarters, and no kitchen or bathroom facilities.

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Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

August 9, 1989

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance
CASE NUMBER: 90-97-A
ES Lolly Lane, 5 215' from centerline of Cowenton Avenue
5023 Lolly Lane
11th Election District - 5th Councilmanic
Petitioner(s): David F. Nighkin, et ux
HEARING SCHEDULED: WEDNESDAY, SEPTEMBER 20, 1989 at 11:00 a.m.

Variances To allow a side yard setback of 2 ft. in lieu of the required 10 ft.

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In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines

J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

JRHigs

cc: David F. Nighkin, et ux
File

3) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

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ORDER RECEIVED FOR FILING
Date 9/27/89
By [Signature]

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PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.A.3 and 1802.3.C To allow a side yard setback of 2 ft. in lieu of the required 10 ft.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)
1. The yard in the rear of house has a septic tank, and is not a good area for a garage.
2. Safety, My wife sometimes home sometimes by herself and its dark, and she usually has the kids.
3. WATER DRAINAGE ON MY PROPERTY ISN'T GOOD, AND THE LOT BY THE HOUSE IS THE MOST LEVEL.
Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:
(Type or Print Name)
Signature
Address
City and State
Attorney for Petitioner:
(Type or Print Name)
Signature
Address
City and State
Attorney's Telephone No.:
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Name
Address
Phone No.

Legal Owner(s):
(Type or Print Name)
Signature
Address
City and State
Name
Address
Phone No.

301-488-2300 W
5023 Lolly Lane 301-256-2914 H
Perry Hall Md 21228

ORDERED By The Zoning Commissioner of Baltimore County, this 28th day of June, 89, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 20 day of Sept, 1989, at 11 o'clock A.M.

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(over)

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

Mr. & Mrs. David F. Nighkin
5023 Lolly Lane
Perry Hall, Maryland 21228

Re: Petition for Zoning Variance
CASE NUMBER: 90-97-A
ES Lolly Lane, 5 215' from centerline of Cowenton Avenue
5023 Lolly Lane
11th Election District - 5th Councilmanic
Petitioner(s): David F. Nighkin, et ux
HEARING SCHEDULED: WEDNESDAY, SEPTEMBER 20, 1989 at 11:00 a.m.

Dear Mr. & Mrs. Nighkin:

Please be advised that \$ 99.00 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

JRHigs

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BEGINNING for the same at a point on the Southeast side of Lolly Lane 60 feet wide, distant 200 feet Southwesterly measured along the Southeast side of said Lolly Lane and the corner formed by the intersection of the said Southeast side of Lolly Lane and the Southwest side of Cowenton Avenue 30 feet wide and running thence 67 degrees 29 minutes beginning bearing on the said Southeast side of Lolly Lane South 67 degrees 29 minutes West as now surveyed 100 feet thence leaving the said Southeast side of said Lolly Lane and running South 19 degrees 1 minute East 200 feet thence North 67 degrees 29 minutes East parallel with Lolly Lane 100 feet thence North 19 degrees 1 minute West parallel with the second line of this description 200 feet more or less to the place of beginning.

Subject to a strip of land 5 feet wide immediately adjoining the first line of this description on the Southeast for the widening of Lolly Lane.

The improvements being known as No. 5023 Lolly Lane (formerly 1 Lolly Lane)


BEING the same lot of ground and premises which by Deed dated December 28, 1982 and recorded among the Land Records of Baltimore County in Liber EHKM. No. 6478 folio 42h was conveyed by Daniel S. Sullivan, Jr., Trustee to said Grantor.

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District 11th Date of Posting 9/1/89
Posted for Variances
Petitioner David F. Nighkin, et ux
Location of property ES Lolly Lane, 5/215' from centerline of Cowenton Ave.
5023 Lolly Lane
Location of Sign Facing Lolly Lane across 5' E. end of lot, on property of Petitioner
Remarks See Exhibit 1
Posted by [Signature] Date of return 9/6/89
Number of Signs 1

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Paul H. Reincke
Chief



Dennis F. Rasmussen
County Executive

Gentlemen:

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: Capt Joseph J. Kelly 6-26-57
Planning Group
Special Inspection Division

**Noted and
Approved**

Capt Wm Bral
Fire Prevention Bureau

JK/KEK

July 24, 1989

RECEIVED

Dennis F. Rasmussen
County Executive

ZONING OFFICE

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 525, 526, 527, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 557, 558 and 559.

Very truly yours,

Michael S. Flanigan
Traffic Engineer Associate II

MSF/lab

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BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner

DATE: September 7, 1989

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: David F. Highkin, et ux, Item 555
Zoning Petition No. 90-97-A

The petitioner requests a variance to allow a side yard setback of 2 feet in lieu of the required 10 feet. In reference to this request, staff offers no comment.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

PR/JL/sf

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9/11/89 rec. late - send comments
you

SEP 1 1951

SEP 1 1964

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**PETITIONER'S
EXHIBIT 1**

